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## BEFORE THE ARIZONA CORPORATION COMMISSION

## COMMISSIONERS

Arizona Corporation Commission

DOCKETED

LEA MÁRQUEZ PETERSON - Chairwoman

SANDRA D. KENNEDY

JUSTIN OLSON

ANNA TOVAR

JIM O'CONNOR

JAN 31 2022

DOCKETED BY

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In the matter of:

TONY ROLAND SPOONER  
aka ANTHONY R. SPOONER (CRD  
#2187069), and WENDY SPOONER,  
husband and wife,

FIRST FEDERAL SECURITY, INC., an  
Arizona company, and

ROKAY UNLIMITED, LLC, an Arizona  
limited liability company,

Respondents.

DOCKET NO. S-21141A-21-0022

DECISION NO. 78417

**ORDER TO CEASE AND DESIST, ORDER  
FOR RESTITUTION, ORDER FOR  
ADMINISTRATIVE PENALTIES, AND  
CONSENT TO SAME**

**BY: RESPONDENTS TONY ROLAND  
SPOONER, WENDY SPOONER, FIRST  
FEDERAL SECURITY, INC., AND ROKAY  
UNLIMITED, LCC**

Respondents Tony Spooner, Wendy Spooner, First Federal Security, Inc., and Rokay Unlimited, LLC ("Respondents") elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order to Cease And Desist, Order for Restitution, and Order for Administrative Penalties ("Order"). Respondents admit the jurisdiction of the Arizona Corporation Commission ("Commission"); admit only for purposes of this proceeding and any other proceeding in which the State is a party to the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

**I.****FINDINGS OF FACT**

1. Tony Spooner ("Spooner") has been an Arizona resident during the relevant time period. Spooner has been a licensed Arizona insurance producer since June 28, 1999. Spooner has not been registered with the Commission as a securities salesman, dealer, or investment advisor.

2. Wendy Spooner was at all relevant times the spouse of Respondent Spooner (Wendy Spooner may be referred to as "Respondent Spouse"). Respondent Spouse is joined in this action under A.R.S. §44-2031(C). At all relevant times, Spooner and Wendy Spooner were acting for their own benefit and on behalf of and for the benefit of the marital community.

3. First Federal Security, Inc. ("First Federal") was a company incorporated under the laws of the state of Nevada on October 15, 2001. It was registered as a foreign, for-profit corporation under the laws of the state of Arizona on November 19, 2001. First Federal was permanently revoked as a corporation in Nevada on or around October 31, 2006. First Federal has been inactive on Arizona since on or around October 31, 2007. Spooner had been an officer and director of First Federal since October 15, 2001, and President since at least October 2, 2002. First Federal was not registered by the Commission as a securities salesman, dealer, or investment advisor.

4. Rokay Unlimited, LLC ("Rokay") is a manager-managed limited liability company organized under the laws of the state of Arizona on March 13, 2015. Spooner has been the manager of Rokay since its formation.

5. During the relevant time period, Spooner offered and sold services such as estate planning, living trusts, annuities, long term care, and insurance through his company, First Federal.

6. In addition to the aforementioned products, from at least May 2012, Respondents Spooner and First Federal solicited First Federal clients to invest in debentures issued by companies controlled by EquiAlt, LLC, including EquiAlt Fund, LLC ("Fund I"), EquiAlt Fund II, LLC ("Fund II"), EA SIP, LLC, and EquiAlt Secured Income Portfolio REI, Inc. ("REIT").

1           7.       Debentures issued by the aforementioned companies will be collectively referred  
2 herein as "EquiAlt Debentures." EquiAlt Debentures promised a fixed rate of return ranging from  
3 8% to 12% annually, and Investors had the option to either receive payments monthly, annually, or  
4 to re-invest their rate of return.

5           8.       EquiAlt, LLC, Fund I, Fund II, EA SIP, LLC, and REIT will be collectively referred  
6 herein as "EquiAlt," and those who invested in the EquiAlt Debentures will be referred herein as  
7 "Investor(s)."

8           9.       Respondents Spooner and First Federal sold at least 47 EquiAlt Debentures to  
9 Investors, totaling at least \$4,037,266.98 invested. At least 18 Investors were from Arizona. At all  
10 relevant times, Spooner was located in Arizona.

11          10.       From at least March 2013 through February 2020, Respondents Spooner and Rokay  
12 earned commissions for sales of EquiAlt Debentures totaling at least \$774,158.70. Spooner solicited  
13 and sold EquiAlt Debentures through First Federal; however, earned commissions were paid either  
14 directly to Respondents Spooner or Rokay.

15          11.       Spooner provided at least some, if not all, of the Investors with marketing material  
16 that advertised EquiAlt Debentures as an "[o]ppportunity to make investments in whole distressed  
17 Single Family Real Estate focused on equity [sic] on acquisition [sic] buying and buy-to-rent  
18 strategies."

19          12.       Spooner provided at least some, if not all, of the Investors with EquiAlt's private  
20 placement memoranda ("PPMs"), subscription agreements ("Subscription Agreement(s)"), and  
21 summary of terms ("Summary of Terms").

22          13.       The PPMs and the Summary of Terms stated that Investors would receive between 8-  
23 12% return on their principal, which would be paid either monthly, annually, or growth during a 2-  
24 to 5-year term. These terms were summarized in the Summary of Terms.

1           14.     The PPMs also stated that the purpose of the investment was to generate capital for  
2 EquiAlt to “purchase, improve, lease, and/or dispose of distressed real property, enter into  
3 opportunistic loan transactions and/or engage in other ventures.”

4           15.     The Subscription Agreement outlined the units that the Investors were purchasing at  
5 \$10.00 per unit.

6           16.     The Subscription Agreement also stated “The Subscriber represents that the  
7 Subscriber is an officer, director or equivalent of the Company, and/or is an ‘Accredited Investor,’  
8 as such term is defined in Rule 501 of Regulation D promulgated under the Act, and that the  
9 Subscriber is able to bear the economic risk of an investment in the Units.”

10          17.     As a part of the investment application, Investors were provided with a Prospective  
11 Purchaser Questionnaire (“PPQ”). The PPQ required Investors to identify whether they were  
12 accredited or unaccredited investors; if they were unaccredited, the PPQ required Investors to provide  
13 their net worth and income.

14          18.     Spooner completed the PPQ for at least some of the Investors. Barry Rybicki, the  
15 President of EquiAlt, told Spooner nobody looks at the PPQ, and to put what he [Spooner] thought  
16 he needed to put.

17          19.     At least some of the Investors did not have investment experience and/or did not  
18 qualify as accredited investors. One Investor was of the understanding she invested in Goldstar, when  
19 in actuality, Goldstar was the trust company through which her EquiAlt investment was made. This  
20 Investor was unaware she had invested in EquiAlt until she received her first statement from EquiAlt.

21          20.     At least 16 Investors were in their 60s, 70s, or 80s. According to Spooner, many of  
22 his clients were conservative in their investment approach. Because of the age of his clients, “safety  
23 was the main concern, and EquiAlt also provided a certain amount of liquidity, which was nice.”

24          21.     Spooner told at least one Investor that he had personally invested in EquiAlt, as well  
25 as his mother and mother-in-law. Spooner allowed the Investor to look at an account summary with  
26

1 an existing EquiAlt account. This disclosure led the Investor to believe the EquiAlt Debentures were  
2 a safe investment. However, Spooner had not personally invested in EquiAlt Debentures.

3 22. At least some of the Investors gave their investment money for EquiAlt Debentures  
4 directly to Spooner, who submitted it to EquiAlt on their behalf. Spooner also helped facilitate the  
5 movement of Investor money from IRAs into EquiAlt.

6 23. At least some of the Investors would be impacted negatively if they lost the money  
7 they invested in EquiAlt Debentures. At least one Investor would be severely impacted, as it would  
8 impact her retirement.

9 24. On February 11, 2020, the Securities and Exchange Commission ("SEC") filed a  
10 complaint in the U.S. District Court for the Middle District of Florida against EquiAlt, Fund I, Fund  
11 II, EA SIP, LLC, and related parties. In its complaint, the SEC alleged that EquiAlt has been  
12 conducted as a Ponzi scheme since 2011 and has raised over \$170 million from over 1,100 investors.

13 25. On February 14, 2020, the judge in the SEC case issued an order appointing a receiver  
14 for EquiAlt to take immediate possession of all EquiAlt property, assets, and estates.

15 **Untrue Statements and Omissions by Spooner and First Federal**

16 26. Subscription Agreements for the EquiAlt Debentures specifically state that the "Units  
17 are being sold through the Company without commission." Spooner omitted to tell at least some of  
18 the Investors that he was receiving commissions for the sale of the EquiAlt Debentures.

19 27. Spooner misrepresented to at least some Investors the risk involved with investing in  
20 EquiAlt Debentures. Spooner told at least one investor EquiAlt Debentures were very safe and were  
21 such a good investment, Spooner enrolled his own mother in the investment with EquiAlt. However,  
22 EquiAlt Debentures were "highly speculative" and involved a "high degree" of risk.

23 28. Spooner told another Investor EquiAlt would be unaffected by the stock market and  
24 losses were mitigated because the homes were purchased 20-50% below market value. Spooner told  
25 at least some Investors that EquiAlt was 100% debt free and EquiAlt Debentures were 100% asset  
26

1 backed. Spooner also described EquiAlt as “flush and ready to expand.” In actuality, EquiAlt was  
2 operating at a loss and using Investor money in new funds to pay Investors in previous funds.

3 29. Spooner misrepresented to at least some, if not all, Investors the liquidity of the  
4 EquiAlt Debentures. Spooner represented that EquiAlt provided “a certain amount of liquidity” even  
5 though the Subscription Agreement stated “the Subscriber may not be able to liquidate his, her, or its  
6 investment.”

7 30. Spooner misrepresented to at least some Investors the registration status of EquiAlt  
8 Debentures. Spooner told at least one Investor the EquiAlt Debentures were not registered as  
9 securities because the amount of money being brought in was below the limit set by the SEC for a  
10 managed fund. The Subscription Agreement stated EquiAlt Debentures are “intended to be exempt  
11 from the registration requirements of Section 5 of the Act.”

12 31. Spooner misrepresented to at least one Investor that he had personally invested in  
13 EquiAlt Debentures. Spooner made no personal investments in EquiAlt Debentures.

14 32. Spooner misrepresented to at least some Investors that he was the President of First  
15 Federal. Sometime in 2018, Spooner provided at least one Investor with his business card naming  
16 himself as such; however, First Federal was not an active corporation and had not been in over a  
17 decade.

## 18 II.

### 19 CONCLUSIONS OF LAW

20 1. The Commission has jurisdiction over this matter pursuant to Article XV of the  
21 Arizona Constitution and the Securities Act.

22 2. Respondents Spooner, Rokay, and First Federal offered or sold securities within or  
23 from Arizona, within the meaning of A.R.S. §§ 44-1801(16), 44-1801(22), and 44-1801(27).

24 3. Respondents Spooner, Rokay, and First Federal violated A.R.S. § 44-1841 by offering  
25 or selling securities that were neither registered nor exempt from registration.  
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4. Respondents Spooner, Rokay, and First Federal violated A.R.S. § 44-1842 by offering or selling securities while neither registered as a dealer or salesman nor exempt from registration.

5. Respondents Spooner, Rokay, and First Federal violated A.R.S. § 44-1991 by (a) employing a device, scheme, or artifice to defraud, (b) making untrue statements or misleading omissions of material facts, and or (c) engaging in transactions, practices, or courses of business that operate or would operate as a fraud or deceit.

6. Respondents' Spooner, Rokay, and First Federal conduct is grounds for a cease and desist order pursuant to A.R.S. § 44-2032.

7. Respondents' Spooner, Rokay, and First Federal conduct is grounds for an order of restitution pursuant to A.R.S. § 44-2032.

8. Respondents' Spooner, Rokay, and First Federal conduct is grounds for administrative penalties under A.R.S. § 44-2036.

9. Respondents Spooner and Wendy Spooner acted for their own benefit and on behalf of and for the benefit of the marital community and, this order of restitution and administrative penalties is a debt of the community.

10. Tony Spooner directly or indirectly controlled persons or entities within the meaning of A.R.S. § 44-1999, including but not limited to First Federal and Rokay. Therefore, Tony Spooner is jointly and severally liable under A.R.S. § 44-1999 to the same extent as First Federal and Rokay for any violations of A.R.S. § 44-1991.

### III.

## ORDER

THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and Respondents' consent to the entry of this Order, attached and incorporated by reference, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

1 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Respondents, and any of Respondents'  
2 Spooner, Rokay, and First Federal agents, employees, successors and assigns, permanently cease and  
3 desist from violating the Securities Act.

4 IT IS FURTHER ORDERED that Respondents comply with the attached Consent to Entry  
5 of Order.

6 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that Respondent Tony Spooner,  
7 as his sole and separate obligation, and Respondents, Tony Spooner and Wendy Spooner, as a  
8 community obligation, shall pay restitution to the Commission in the principal amount of  
9 \$774,158.70 as a result of the conduct set forth in the Findings of Fact and Conclusions of Law.  
10 Payment is due in full on the date of this Order. Payment shall be made to the "State of Arizona" to  
11 be placed in an interest-bearing account controlled by the Commission. Any principal amount  
12 outstanding shall accrue interest at the rate of ten percent per annum from the date of purchase until  
13 the date of this Order, subject to any legal offsets, pursuant to A.A.C. R14-4-308(C).

14 IT IS FURTHER ORDERED that the restitution ordered in the preceding paragraph will  
15 accrue interest, as of the date of the Order, at the rate of the lesser of (i) ten percent per annum or (ii)  
16 at a rate per annum that is equal to one per cent plus the prime rate as published by the board of  
17 governors of the federal reserve system in statistical release H. 15 or any publication that may  
18 supersede it on the date that the judgment is entered.

19 The Commission shall disburse the funds on a pro-rata basis to investors shown on the records  
20 of the Commission. Any restitution funds that the Commission cannot disburse because an investor  
21 refuses to accept such payment, or any restitution funds that cannot be disbursed to an investor  
22 because the investor is deceased shall be disbursed on a pro-rata basis to the remaining investors  
23 shown on the records of the Commission. Any funds that the Commission determines it is unable to  
24 or cannot feasibly disburse shall be transferred to the general fund of the state of Arizona.

25 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Respondent Tony Spooner,  
26 as his sole and separate obligation, and Respondents, Tony Spooner and Wendy Spooner, as a



1 community obligation, shall pay an administrative penalty in the amount of \$50,000 as a result of the  
2 conduct set forth in the Findings of Fact and Conclusions of Law. Payment is due in full on the date  
3 of this Order. Payment shall be made to the "State of Arizona." Any amount outstanding shall accrue  
4 interest as allowed by law.

5 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be  
6 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments  
7 shall be applied to the penalty obligation.

8 For purposes of this Order, a bankruptcy filing by Respondents Tony Spooner and/or Wendy  
9 Spooner shall be an act of default. If Respondents Tony Spooner and/or Wendy Spooner do not  
10 comply with this Order, any outstanding balance may be deemed in default and shall be immediately  
11 due and payable.

12 IT IS FURTHER ORDERED, that if Respondents fail to comply with this order, the  
13 Commission may bring further legal proceedings against Respondents, including application to the  
14 superior court for an order of contempt.

15 IT IS FURTHER ORDERED, that no finding of fact or conclusion of law contained in this  
16 Order shall be deemed binding against any Respondent under this Docket Number who has not  
17 consented to the entry of this Order.

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IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

  
CHAIRWOMAN MÁRQUEZ PETERSON

  
COMMISSIONER KENNEDY

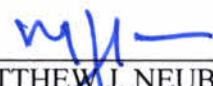
  
COMMISSIONER OLSON

  
COMMISSIONER TOVAR

  
COMMISSIONER O'CONNOR



IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 31 day of January, 2022.

  
MATTHEW J. NEUBERT  
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Carolyn D. Buck, ADA Coordinator, voice phone number (602) 542-3931, e-mail [cdbuck@azcc.gov](mailto:cdbuck@azcc.gov).

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